

Appln No. 10/659,025  
Amdt. Dated May 17, 2005  
Response to Office Action of April 22, 2005

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### **REMARKS/ARGUMENTS**

The Applicant thanks the Examiner for the Office Action dated April 22, 2005.

#### **Amendment**

The Applicant has updated Page 1 of the specification with a corrected paragraph pertaining to cross references to related applications. The Applicant submits that these amendments introduce no new matter.

#### **Claim Rejections - 35 USC § 102**

The Examiner has cited Schaeffer (US 6,731,952) as prior art under 35 USC § 102(e).

Schaeffer was filed on December 29, 2000 and is a continuation-in-part of 09/626,881, filed on July 27, 2000. Hence, the earliest possible effective filing date of Schaeffer under 35 USC § 102(e) is July 27, 2000.

The present application is a continuation application of 09/436,589, filed on November 9, 1999. Hence the effective filing date of the present application, for the purposes of 35 USC § 102(e), is November 9, 1999.

It is submitted that since the present application has an earlier effective filing date than Schaeffer, then Schaeffer is not relevant as prior art under 35 USC § 102(e).

In view of the above, the Examiner is kindly requested to reconsider her objections under 35 USC § 102(e).

#### **Claim Rejections - 35 USC § 103**

Since Schaeffer cannot be considered as prior art under 35 USC § 102(e), it is submitted that this document is, likewise, not relevant prior art under 35 USC § 103(a).

In addition, it is submitted that Silverbrook (US 6,628,430) is irrelevant prior art under 35 USC § 103(a). Notwithstanding the fact that Silverbrook and the present application share the same effective filing date of November 7, 1999, Silverbrook and the present application

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are commonly assigned at the time the invention was made. (See MPEP 706.02(k)). Hence, Silverbrook cannot be considered as relevant prior art under 35 USC § 103(a).

In summary, none of the prior art cited by the Examiner is relevant under either 35 USC § 102(e) or 35 USC § 103(a).

It is respectfully submitted that all of the Examiner's objections have been successfully traversed. Accordingly, it is submitted that the application is now in condition for allowance. Reconsideration and allowance of the application is courteously solicited.

Very respectfully,

Applicant:



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KIA SILVERBROOK

Applicant:



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